

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NO. 03 CV 12307 RGS

JOSEPH CHRISTOFORO)
 Plaintiff)
)
VS.)
)
JULIO LUPO,)
 Defendant)

Motion for Leave to File Motion
for Summary Judgment Late

Now comes the plaintiff, Joseph Christoforo, and respectfully moves this Honorable Court to grant him leave to file late his Motion for Summary Judgment and supporting materials.

In support of this motion, the plaintiff assigns the following:

1. That allowance of the plaintiff's motion would best serve the interests of judicial economy as there are simply no material facts left in dispute that would require a trial;
2. That more specifically, defendant Lupo has admitted numerous times to striking the plaintiff, he has admitted he was employed by the sheriff's office and was working as the Assistant Food Director at the Essex County House of Correction at the time of the assault, and he has admitted that the plaintiff suffered permanent physical injuries as a result of the assault;
3. That the instant matter was delayed due to the plaintiff's appeal of an earlier decision by this Court to the United States Court of Appeals for the First Circuit;
4. That the instant matter remained under review at the First Circuit for several months;
5. That the plaintiff points out that no where in his Motion to Strike does the

defendant dispute any of the merits of Mr. Christoforo's motion and indeed the defendant filed an Offer of Judgment pursuant to Rule 68 shortly before his Motion to Strike;

6. That accordingly, where there are no genuine issues of material fact, summary judgment is a "valuable tool for saving judicial time," Mack v. Cape Elizabeth School Board, 553 F.2d 720, 722 (1st Cir. 1977), and the Court should allow the plaintiff's Motion for Leave to File Motion for Summary Judgment Late.

Respectfully Submitted,
The Plaintiff,
By His Attorney,

/s/ Edward J. McCormick, III
Edward J. McCormick, III
McCormick & Maitland
Suite Six – Hayward Manor
195 Main Street
Franklin, MA 02038
(508) 520-0333
BBO# 329780